

## REMARKS/ARGUMENTS

### I. Fees

Applicant believes that there are no additional fees due at this time. *If there are any additional fees due in respect to this amendment, please charge them to Deposit Account No. 13-2165. Authority is hereby given to charge any such deficiency, or credit any overpayment, to Deposit Account No. 13-2165 Mathews, Shepherd, McKay & Bruneau. The Examiner is invited to contact the undersigned if further information is required.*

### II. Shortened Statutory Period

The Office Communication of February 8, 2006 has a shorten statutory period ending on May 8, 2006. A *Petition for Extension of Time* of two months through July 8, 2006 is included with this response. As July 8, 2006 was a Saturday, this response is timely.

### III. Request for Interview

Prior to the issuance of a further Office communication, Applicant requests an interview with the Examiner to further discuss the claimed present invention and how it is distinguished over the cited prior art.

**IV. Claim Objections**

The Examiner has objected to claims 72-80 and claims 82-90 because of informalities and has required correction. Applicant has amended claims 72-80 and 82-90 as required. Applicant respectfully requests withdrawal of the objection to claims 72-80 and 82-90.

**V. 35 U.S.C. § 112**

It is the Examiner's opinion that claims 71 and 81 are rejected under 35 U.S.C. § 112 second paragraph as failing to particularly point out and distinctly claim the subject matter of the invention. The applicant has amended claims 71 and 81 to more clearly describe the present invention.

The Examiner has stated that "it is unclear how one can analyze content of data (which inherently involves accessing it) and then mention that the analysis was done without accessing the data." The applicant has amended claims 71 and 81 to more clearly describe the present invention. The applicant agrees with the Examiner that the step of analyzing does involve accessing the content of the data. However, the applicant wishes to respectfully point out that the steps of grading (the results of the analysis), marking (the grading) and evaluating (the marking) for subsequent use does not involve accessing the content of the data. In particular, the digital receiver digital receiver does not require access to the content of the data at all and may be determining suitability for subsequent use by another digital receiver.

**VI. 35 U.S.C. § 102**

It is the Examiner's opinion that claims 71-90 are anticipated by US Patent No. 6,647,424 issued to Pearson et al. (Pearson). In the interest of prosecutorial efficiency the Applicant has amended independent claims 71 and 81 in order to more clearly state the present invention.

Pearson relates to quality of service (QOS) of data packets. The applicant agrees that Pearson discloses communicating digital data between data sources, QOS and TOS. Pearson relates to the transmission of digital data between data sources

Pearson teaches communicating digital packets between digital sources and corresponding QOS and TOS issues. Pearson does **not** teach or suggest evaluating and determining the quality of the inspection data without user interaction. Pearson does **not** teach or suggest accessing independently created digital data wherein a digital receiver dynamically evaluates the marked grade without user interaction to determine suitability for subsequent use of the preexisting independently created digital data without accessing the preexisting independently created digital data whereby another digital receiver can independently determine suitability from the marked grade for another subsequent use of the preexisting digital data without accessing the preexisting digital data.

The present invention is not claiming QOS or TOS grading of data transmission. As the Examiner has pointed out, the step of analyzing does involve accessing the content of the data. *However, the steps of grading (the results of the analysis), marking (the grading) and evaluating (the marking) for subsequent use does not involve accessing the content of the data (and thus is independent of the transmission of the data). In particular, the digital receiver digital receiver does not even require access to the content of the data at all (thus there would be no transmission of the data) and may be determining suitability for subsequent use by another digital receiver to which the content would actually be transmitted.*

In contrast to Pearson, the present invention claims a method for determining and signaling content quality of preexisting independently created digital data comprising: the steps of accessing the preexisting independently created digital data; assessing the quality of the content of the preexisting independently created digital data using one or more predefined sets of criteria without user interaction; assigning a grade indicative of the quality of the content of the preexisting independently created digital data as a function of the one or more predefined sets of criteria without user interaction; and, marking the preexisting independently created data with the assigned grade without changing the content of the preexisting independently created data and without user interaction; wherein a digital receiver dynamically without user interaction evaluates the marked grade to determine suitability for subsequent use of the preexisting independently created digital data without accessing the preexisting independently

created digital data whereby another digital receiver can independently determine without user interaction suitability from the marked grade for another subsequent use of the preexisting digital data without accessing the preexisting digital data.

If we look at the disclosure of the present invention it may be easier to understand this distinction and what is being claimed. In particular when considering a City field

there may be certain constraints put on the field value. Examples would be 1) greater than three characters, 2) no backslash characters, 3) no underscore characters, 4) no space characters. This type of filtering would be done prior to looking up the city name in a database for that zip code. There is the high possibility that the look up would fail, but all we could indicate would be "invalid value." It would be more informative for the root cause analysis if other characteristics of the value were identified that could assist in determining if this was a coding problem versus a user problem. Since data validation and monitoring also serves a diagnostic tool, the more explicit it can be in helping to root cause the issue would be a value add to the user. (see page 9)

The point that the grading is done to preexisting independently created digital data without the need for having user interaction and that a subsequent receiver of the marked grade can dynamically evaluate the marked grade to determine suitability for subsequent use of the preexisting independently created data without accessing the preexisting independently created data and that the suitability for a particular subsequent use without user interaction is a function of the marked grade and the particular subsequent use is not taught by Pearson. It isn't simply that data is graded, but how the data is graded and marked without the need for having user interaction and that a subsequent receiver of the marked grade can dynamically evaluate it to determine

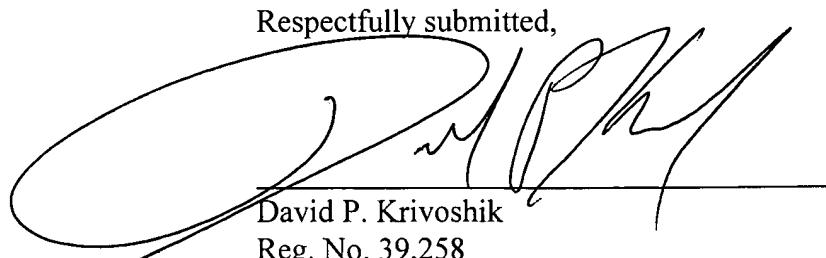
suitability for subsequent use without user interaction. The present invention can be applied to Pearson, wherein it would provide grading and marking the packets before they are transmitted.

Pearson does not teach each and every element of the applicant's claimed invention. Withdrawal of the rejection under 35 U.S.C. § 102 is respectfully requested, as the Examiner has failed to make a prima facia case of anticipation based on the cited prior art.

## VII. Summary

By this amendment, applicant has amended the claims to more clearly state the present invention. Applicant believes that claims 71-90, the only remaining claims are in condition for allowance. Should there remain any questions or other matters whose resolution may be advanced by a telephone call, the Examiner is cordially invited to contact the applicant's undersigned attorney at his number below.

Dated: July 10, 2006

Respectfully submitted,  
  
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